

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
ELKINS

UNITED STATES OF AMERICA *ex rel.*
JOHN OSBORNE CRANDELL, III,

Plaintiff,

v.

Civ. Action No. 2:18-CV-124
(Kleeh)

HARDY COUNTY RURAL
DEVELOPMENT AUTHORITY,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 16] AND
GRANTING MOTION TO DISMISS [ECF NO. 11]

On November 29, 2018, the Plaintiff, John Osborne Crandell, III ("Crandell"), filed this *qui tam* action under the False Claims Act, alleging that the Defendant, the Hardy County Rural Development Authority ("HCRDA"), submitted or caused to be submitted false claims to the United States of America under a land development grant program. ECF No. 1. The program is administered by the United States Department of Commerce's Economic Development Authority ("EDA") in Hardy County, West Virginia. Id.

Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the action to United States Magistrate Judge Michael J. Aloï for initial review. On March 8, 2019, after investigating the claim, the United States notified the Court of its decision not to

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 16] AND
GRANTING MOTION TO DISMISS [ECF NO. 11]

intervene, and it moved to dismiss the action. ECF Nos. 10, 11.

On May 22, 2019, Judge Aloï entered a Report and Recommendation ("R&R"), recommending that the Court grant the Motion to Dismiss. The R&R also informed the parties that they had fourteen days to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." ECF No. 16 at 12. It further warned them that the "[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals." Id. Crandell received the R&R on May 25, 2019. To date, no objections have been filed.

When reviewing a magistrate judge's R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, "the Court may adopt, without explanation, any of the magistrate judge's recommendations to which the [parties do] not object." Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603-04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 16] AND
GRANTING MOTION TO DISMISS [ECF NO. 11]

obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, the Court:

- (1) **ADOPTS** the R&R [ECF No. 16] for reasons more fully stated therein;
- (2) **GRANTS** the Government's Motion to Dismiss [ECF No. 11]; and
- (3) **STRIKES** this action from the active docket of the Court.

It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to counsel of record and to the pro se plaintiff, via certified mail, return receipt requested.

DATED: June 27, 2019



THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE